

TWENTY-SECOND DAY - FEBRUARY 9, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****TWENTY-SECOND DAY**

Legislative Chamber, Lincoln, Nebraska
Monday, February 9, 2004

PRAYER

The prayer was offered by Pastor Linda Newman, United Church of Christ, Uehling and Scribner.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Heineman presiding.

The roll was called and all members were present except Senators Brashear, Hudkins, and Dw. Pedersen who were excused; and Senators Aguilar, Brown, Maxwell, and Price who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twenty-first day was approved.

ANNOUNCEMENT

Senator Maxwell designates LB 602 as his priority bill.

MESSAGE FROM THE SECRETARY OF STATE

February 6, 2004

Mr. President, Mr. Speaker and
Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

The purpose of this letter is to inform the honorable members of the Legislature that I have made the following appointments requiring Legislative confirmation:

Mr. Gary Rosacker (Independent) to the Accountability and Disclosure Commission on July 22, 2003, for a six year term ending June 30, 2009; and

Mr. Andre R. Barry (Democrat) to the Accountability and Disclosure Commission on September 5, 2003, for a six year term ending June 30, 2009.

These appointments were made by me pursuant to the provisions of Sections 49-14,105, 49-14,110, 49-14,112 and 49-14,114 and is respectfully submitted for your consideration.

Attached is additional background information on the qualifications of each of the appointments.

Sincerely,
(Signed) John A. Gale
Secretary of State

cc: Frank Daley
sh

RESOLUTION

Pursuant to Rule 4, Sec. 5(b), LR 229 was adopted.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LR 229.

GENERAL FILE

LEGISLATIVE BILL 906. Considered.

Senator Chambers offered the following amendment:

FA1455

Amend AM2249

P. 20, strike lines 5-8.

Senator Chambers withdrew his amendment.

Senator Stuhr moved for a call of the house. The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Advanced to E & R for review with 43 ayes, 0 nays, 1 absent and not voting, and 5 excused and not voting.

The Chair declared the call raised.

SENATOR CUDABACK PRESIDING

LEGISLATIVE BILL 969. Title read. Considered.

The Standing Committee amendment, AM2328, found on page 416, was adopted with 27 ayes, 0 nays, 16 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 32 ayes, 0 nays, 10 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 841. Title read. Considered.

Senator Chambers offered the following amendment:

FA1456

P. 2 in line 6, strike and show as stricken, "any organization created exclusively for religious purposes"

Pending.

STANDING COMMITTEE REPORTS Education

LEGISLATIVE BILL 934. Placed on General File as amended.

Standing Committee amendment to LB 934:

AM2334

1 1. On page 2, line 7, reinstate the stricken matter; in
2 lines 7 and 8 strike "August" through "year", show the old matter
3 as stricken, and insert "of the current year for school years prior
4 to school year 2005-06 and on or before August 1 of the current
5 year for school year 2005-06 and each school year thereafter"; in
6 line 10 reinstate the stricken matter; and in lines 10 and 11
7 strike "August" through "year", show the old matter as stricken,
8 and insert "of the current year for school years prior to school
9 year 2005-06 and between August 2 and November 15 of the current
10 year for school year 2005-06 and each school year thereafter".

LEGISLATIVE BILL 1079. Indefinitely postponed.

(Signed) Ron Raikes, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 234. Introduced by Bromm, 23.

WHEREAS, at the annual Statehood dinner, held in the Nebraska State Capitol, the NEBRASKAland Foundation on Saturday, February 28, 2004, will present the distinguished Nebraskalander award, along with the

WagonMaster Awards, the Trailblazer Award, and the Pioneer Award; and

WHEREAS, the first WagonMaster Award is presented to Mr. Tony Raimondo. Mr. Raimondo is chairman and CEO of Behlen Mfg. Company. He led the effort to complete a successful management buy-out in 1984 as Behlen experienced major losses due to market changes and Wickes Corporation emerged from Chapter 11. Mr. Raimondo has spent the majority of his career in large corporations, beginning with General Motors Upon completing his BSME Degree in 1962. In 1976 he relocated from New York to Omaha and spent many years with Sperry Corporation. He has served as a member and chairman of numerous national and state boards, especially those associated with the manufacturing industry; and

WHEREAS, the second WagonMaster Award is presented to Ms. Susan S. Seacrest. Ms. Seacrest founded the Groundwater Foundation in 1985 and has served as its president since that time. Under her direction, the foundation has grown to become a nationally known, well-respected voice for groundwater education. Ms. Seacrest's expertise has been recognized by the U.S. Environmental Protection Agency through her appointment to several EPA advisory boards. In November 1999 Ms. Seacrest was a speaker at a water issues briefing at the United Nations and spoke at an International Association of Hydrologists Conference in Ireland in 2003; and

WHEREAS, the Pioneer Award is presented to Mr. Norman A. Geske. Mr. Geske served as the Director of the Sheldon Memorial Art Gallery, at the University of Nebraska-Lincoln, from 1956 to 1983. While serving as director of the Sheldon gallery, he also taught art classes at the University. In 1968 Mr. Geske served as the American Commissioner for the XXXIV Biennale in Venice, Italy. This esteemed honor allowed him to select the art that would be viewed in the American Pavilion during the Biennale. The Venice Biennale is considered to be the world's most prestigious art exhibition; and

WHEREAS, the Trailblazer Award is presented to Mr. Benny Hochman. Mr. Hochman has gone from being a prisoner in a Nazi concentration camp, ensuring untold hardships and horror, to being a community leader. Following his release from the concentration camp, he made his way to the United States and was employed by the former Northwestern Bell Telephone Company. He has been a tireless community and state supporter serving on many boards over the years. He has traveled thousands of miles and spent countless hours telling of his experience in the Nazi camp, always leaving his audience with the same message: "Don't take freedom for granted. It is something we need to treasure and protect always." Benny had his book From Hell to Here published at his own expense with all proceeds going to the Endowment Association for Student Scholarships; and

WHEREAS, the distinguished NEBRASKAlander Award is presented to Mr. Michael B. Yanney. Mr. Yanney is Chairman of the Board of the America First Companies, which has managed public investment funds with assets in excess of \$7 billion. Prior to this position, Mr. Yanney was principally engaged in the ownership and management of commercial banks. He has done business in the Soviet Union and Russia since 1976. Additionally, he serves as a member of the board of directors for such

corporations as Burlington Northern Santa Fe Corporation, Level 3 Communications, Inc., Magnum Resources, and RCN Corporation.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Legislature extends its appreciation to the honorees named in this resolution for their service to the State of Nebraska.

2. That a copy of this resolution be given to all honorees.

Laid over.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 986A. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 986, Ninety-eighth Legislature, Second Session, 2004; and to declare an emergency.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Barry, Andre R. - Accountability and Disclosure Commission - Government, Military and Veterans Affairs

Rosacker, Gary - Accountability and Disclosure Commission - Government, Military and Veterans Affairs

(Signed) Pat Engel, Chairperson
Legislative Council, Executive Board

NOTICE OF COMMITTEE HEARING **Transportation and Telecommunications** Room 1113

LB 1154	Tuesday, February 17, 2004	1:30 p.m.
LB 1205	Tuesday, February 17, 2004	1:30 p.m.
LB 1235	Tuesday, February 17, 2004	1:30 p.m.
LB 1255	Tuesday, February 17, 2004	1:30 p.m.

(Signed) Tom Baker, Chairperson

AMENDMENT - Print in Journal

Senator Beutler filed the following amendment to LB 906:

AM2500

(Amendments to Standing Committee amendments, AM2249)

- 1 1. On page 27, line 7, strike the comma and insert "or";
- 2 and strike beginning with "without" in line 8 through "(c)" in line
- 3 9.
- 4 2. On page 30, strike beginning with "The" in line 19
- 5 through the period in line 20.

ANNOUNCEMENT

Senator Preister designates LB 278 as his priority bill.

COMMUNICATIONS

February 5, 2004

Mr. Patrick O'Donnell
Clerk of the Legislature
Room 2018
State Capitol Building
Lincoln, NE 68509

Dear Mr. O'Donnell:

The University of Nebraska is seeking legislative approval of the following project:

University of Nebraska-Lincoln Library Depository/Retrieval Center.

The University of Nebraska-Lincoln proposes to construct a new facility on the East Campus of UNL. The major goal is to provide additional space for library collections that are continuing to grow at significant rates. The facility will house approximately 800,000 library print volumes and documents in an area of 8,975 gross square feet. The stringent environmental conditions in the storage area will minimize the deterioration of books and other documents stored in the facility. The project is estimated to cost \$2,997,000.

Request. The University requests approval for this Library Depository/Retrieval Center totaling \$2,997,000 to be financed from indirect cost funds.

The Board of Regents authorized the project at its June 20, 1998, meeting and the expenditures at its August 9, 2003, meeting. On September 18, 1998, the Nebraska Coordinating Commission for Postsecondary Education approved the project.

Thank you for your consideration of this project.

Respectfully submitted,

(Signed) Kim M. Robak
Vice President for External Affairs
and Corporation Secretary

KMR/rk/nko

February 9, 2004

Senator Pat Engel
Chairman, Executive Board
Room 2010, State Capitol
Lincoln, NE 68509

Dear Senator Engel,

Enclosed is correspondence from Ms. Kim Robak, Vice President for External Affairs and Corporation Secretary for the University of Nebraska-Lincoln. The University is requesting approval to construct the University of Nebraska-Lincoln Depository/Retrieval Center through indirect cost funds.

I am forwarding this correspondence to you for Executive Board action.

Sincerely,
(Signed) Patrick J. O'Donnell
Clerk of the Legislature

PJO:jk

GENERAL FILE

LEGISLATIVE BILL 841. The Chambers pending amendment, FA1456, found in this day's Journal, was renewed.

Senator Chambers withdrew his amendment.

Advanced to E & R for review with 31 ayes, 0 nays, 10 present and not voting, and 8 excused and not voting.

STANDING COMMITTEE REPORTS Health and Human Services

LEGISLATIVE BILL 1069. Placed on General File.

LEGISLATIVE BILL 1140. Placed on General File.

LEGISLATIVE BILL 921. Placed on General File as amended.

Standing Committee amendment to LB 921:

AM2399

- 1 1. Strike section 1 and insert the following new
2 section:

3 "Section 1. Section 43-146.17, Revised Statutes
4 Supplement, 2002, is amended to read:
5 43-146.17. (1) Notwithstanding sections 43-119 to
6 43-146.16 and except as otherwise provided in this section, an heir
7 twenty-one years of age or older of an adopted person shall have
8 access to all information on file at the Department of Health and
9 Human Services and the Department of Health and Human Services
10 Finance and Support related to such adopted person, including
11 information contained in the original birth certificate of the
12 adopted person, if: (a)(i) The ~~(1)(a)~~ the adopted person is
13 deceased, ~~(b)~~ (ii) both biological parents of the adopted person
14 are deceased or, if only one biological parent is known, such
15 parent is deceased, and ~~(c)~~ (iii) each spouse of the biological
16 parent or parents of the adopted person, if any, is deceased, if
17 such spouse is not a biological parent; ; or ~~(2)~~ (b) at least one
18 hundred years has passed since the birth of the adopted person.
19 (2) The following information relating to an adopted
20 person shall not be released to the heir of such person under this
21 section: (a) Tests conducted for the human immunodeficiency virus
22 or acquired immunodeficiency syndrome; (b) the revocation of a
23 license to practice medicine in the State of Nebraska; (c) child
24 protective services reports or records; (d) adult protective
1 services reports or records; (e) child abuse and neglect central
2 register and Adult Protective Services Central Registry
3 information; or (f) law enforcement investigative reports.
4 (3) The ~~department~~ Department of Health and Human
5 Services and the Department of Health and Human Services Finance
6 and Support shall provide a form for requesting such that an heir
7 of an adopted person may use to request information under this
8 section. The ~~department~~ Department of Health and Human Services
9 and the Department of Health and Human Services Finance and Support
10 may charge a reasonable fee in an amount established by rules and
11 regulations of the ~~each~~ department to recover expenses incurred by
12 the ~~department~~ in carrying out this section. The ~~department~~ may
13 waive the Such fee may be waived if the requesting party shows that
14 the fee would work an undue financial hardship on the party. When
15 any information is provided to an heir of an adopted person under
16 this section, the ~~department~~ shall record disclosure of such
17 information shall be recorded in the records of the adopted person,
18 including the nature of the information disclosed, to whom the
19 information was disclosed, and the date of the disclosure.
20 (4) For purposes of this section, an heir of an adopted
21 person means a direct biological descendent of such adopted person.
22 (5) The ~~department~~ Department of Health and Human
23 Services and the Department of Health and Human Services Finance
24 and Support may adopt and promulgate rules and regulations to carry
25 out this section."

Standing Committee amendment to LB 941:

AM2388

- 1 1. Strike sections 2 and 9 and insert the following new
- 2 sections:
- 3 "Sec. 2. Section 71-6103, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 71-6103. For purposes of the Occupational Therapy
- 6 Practice Act, unless the context otherwise requires:
- 7 (1) Active license means the license of a person who is
- 8 acting, practicing, functioning, and working in compliance with the
- 9 requirements of a license;
- 10 (2) Association means a recognized national or state
- 11 association for occupational therapy;
- 12 (3) Board means the Board of Occupational Therapy
- 13 Practice established by section 71-6115;
- 14 (4) Credentialing means the process of obtaining state
- 15 approval to provide health care services or human services or to
- 16 change aspects of a current approval and includes, but is not
- 17 limited to, granting permission to use a protected title that
- 18 signifies that a person is qualified to provide the services within
- 19 the scope of practice of a profession;
- 20 (5) Deep thermal agent modalities means therapeutic
- 21 ultrasound and phonophoresis. Deep thermal agent modalities does
- 22 not include the use of diathermy or lasers;
- 23 (6) Department means the Department of Health and Human
- 24 Services Regulation and Licensure;
- 1 ~~(6) License means a license issued under the act;~~
- 2 ~~(7) Licensee means a person holding a license;~~
- 3 ~~(8) (7) Electrotherapeutic agent modalities means~~
- 4 neuromuscular electrical stimulation, transcutaneous electrical
- 5 nerve stimulation, and iontophoresis. Electrotherapeutic agent
- 6 modalities does not include the use of ultraviolet light;
- 7 (8) Mechanical devices means intermittent compression
- 8 devices. Mechanical devices does not include devices to perform
- 9 spinal traction;
- 10 (9) Occupational therapist means a person holding an
- 11 active license ~~as an occupational therapist to practice~~
- 12 occupational therapy;
- 13 ~~(9) (10)(a)~~ Occupational therapy means the use of
- 14 purposeful activity with individuals who are limited by physical
- 15 injury or illness, psychosocial dysfunction, developmental or
- 16 learning disabilities, or the aging process in order to maximize
- 17 ~~independence~~ independent function, prevent further disability, and
- 18 achieve and maintain health and productivity.
- 19 (b) Occupational therapy encompasses evaluation,
- 20 treatment, and consultation and may include ~~teaching daily living~~
- 21 ~~skills, developing perceptual motor skills and sensory integrative~~
- 22 ~~functioning, developing prevocational capacities, designing,~~
- 23 ~~fabricating, or applying selected orthotic and prosthetic devices~~

24 ~~or selective adaptive equipment, using specifically designed~~
25 ~~therapeutic media and exercises to enhance functional performance,~~
26 ~~administering and interpreting tests such as manual muscle and~~
27 ~~range of motion, and adapting environments for the handicapped (i)~~
1 ~~remediation or restoration of performance abilities that are~~
2 ~~limited due to impairment in biological, physiological,~~
3 ~~psychological, or neurological processes, (ii) adaptation of task,~~
4 ~~process, or the environment, or the teaching of compensatory~~
5 ~~techniques, in order to enhance performance, (iii) disability~~
6 ~~prevention methods and techniques which facilitate the development~~
7 ~~or safe application of performance skills, and (iv) health~~
8 ~~promotion strategies and practices which enhance performance~~
9 ~~abilities;~~

10 ~~(40) (11) Occupational therapy aide means a person who~~
11 ~~assists in the practice of occupational therapy, who works under~~
12 ~~the supervision of an occupational therapist, and whose activities~~
13 ~~require an understanding of occupational therapy but do not require~~
14 ~~professional or advanced training or licensure is not licensed by~~
15 ~~the board and who provides supportive services to occupational~~
16 ~~therapists and occupational therapy assistants;~~

17 ~~(44) (12) Occupational therapy assistant means a person~~
18 ~~holding an active license to assist in the practice of occupational~~
19 ~~therapy;~~

20 ~~(13) Physical agent modalities means modalities that~~
21 ~~produce a biophysiological response through the use of water,~~
22 ~~temperature, sound, electricity, or mechanical devices; and~~

23 ~~(14) Superficial thermal agent modalities means hot~~
24 ~~packs, cold packs, ice, fluidotherapy, paraffin, water, and other~~
25 ~~commercially available superficial heating and cooling~~
26 ~~technologies, as an occupational therapy assistant; and~~

27 ~~(12) Person means any individual, partnership, limited~~
1 ~~liability company, unincorporated organization, or corporate body.~~

2 ~~Sec. 9. (1) In order to apply physical agent modalities,~~
3 ~~an occupational therapist shall be certified pursuant to this~~
4 ~~section. The department shall issue a certificate to an~~
5 ~~occupational therapist to administer a physical agent modality if~~
6 ~~the occupational therapist:~~

7 ~~(a) Has successfully completed a training course approved~~
8 ~~by the board and passed an examination approved by the board on the~~
9 ~~physical agent modality;~~

10 ~~(b) Is certified as a hand therapist by the Hand Therapy~~
11 ~~Certification Commission or other equivalent entity recognized by~~
12 ~~the board;~~

13 ~~(c) Has a minimum of five years of experience in the use~~
14 ~~of the physical agent modality and has passed an examination~~
15 ~~approved by the board on the physical agent modality; or~~

16 ~~(d) Has completed education during a basic educational~~
17 ~~program which included demonstration of competencies for~~
18 ~~application of the physical agent modality.~~

19 (2) The department shall issue a certificate to authorize
 20 an occupational therapy assistant to set up and implement treatment
 21 using superficial thermal agent modalities if the occupational
 22 therapy assistant has successfully completed a training course
 23 approved by the board and passed an examination approved by the
 24 board. Such set up and implementation shall only be done under the
 25 onsite supervision of an occupational therapist certified to
 26 administer superficial thermal agent modalities.

27 (3) An occupational therapist shall not delegate
 1 evaluation, reevaluation, treatment planning, and treatment goals
 2 for physical agent modalities to an occupational therapy
 3 assistant."

4 2. On page 6, line 15, strike "Apply" and insert "If
 5 certified pursuant to section 9 of this act, apply".

6 3. On page 11, line 1, after "Act" insert "to protect
 7 the public health, safety, and welfare and to insure, to the
 8 greatest extent possible, the efficient, adequate, and safe
 9 practice of occupational therapy"; in line 12 strike "The" and
 10 insert "Except as provided in subsection (4) of this section, the";
 11 and after line 16 insert the following new subsection:

12 "(4) The board may adopt and promulgate rules and
 13 regulations governing the training courses for an occupational
 14 therapist to be certified to administer a physical agent modality.
 15 The board may adopt and promulgate rules and regulations governing
 16 the training course for an occupational therapy assistant to be
 17 certified to set up and implement superficial thermal agent
 18 modalities. In adopting such rules and regulations, the board
 19 shall give consideration to the levels of training and experience
 20 which are required, in the opinion of the board, to protect the
 21 public health, safety, and welfare and to insure, to the greatest
 22 extent possible, the efficient, adequate, and safe practice of
 23 occupational therapy. Such rules and regulations shall include the
 24 approval of examinations and the passing score for such
 25 examinations for certification."

LEGISLATIVE BILL 942. Placed on General File as amended.

(Standing Committee amendment, AM2456, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 1054. Placed on General File as amended.

Standing Committee amendment to LB 1054:

AM2449

1 1. Insert the following new sections:

2 "Sec. 4. Section 71-5661, Reissue Revised Statutes of
 3 Nebraska, is amended to read:

4 71-5661. (1) The financial incentives provided by the
 5 Rural Health Systems and Professional Incentive Act shall consist
 6 of (a) student loans to eligible students for attendance at an
 7 eligible school as determined pursuant to section 71-5662 and (b)

8 the repayment of qualified educational debts owed by eligible
9 health professionals as determined pursuant to such section. Funds
10 for such incentives shall be appropriated from the General Fund to
11 the department for such purposes.
12 (2) The Rural Health Professional Incentive Fund is
13 created. The fund shall be used to carry out the purposes of the
14 act. Money credited pursuant to section 71-5670.01 and payments
15 received pursuant to sections 71-5666 and 71-5668 shall be remitted
16 to the State Treasurer for credit to the fund. Any money in the
17 fund available for investment shall be invested by the state
18 investment officer pursuant to the Nebraska Capital Expansion Act
19 and the Nebraska State Funds Investment Act.
20 Sec. 9. Since an emergency exists, this act takes effect
21 when passed and approved according to law."
22 2. On page 8, line 21, strike "71-5662," and insert
23 "71-5661 to".
24 3. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 1240. Placed on General File as amended.
Standing Committee amendment to LB 1240:
AM2478

- 1 1. On page 2, strike beginning with "and" in line 23
- 2 through "program" in line 24.

(Signed) Jim Jensen, Chairperson

General Affairs

LEGISLATIVE BILL 1201. Placed on General File as amended.
Standing Committee amendment to LB 1201:
AM2489

- 1 1. On page 2, line 6, strike "columbariums" and insert
- 2 "columbaria"; and in line 19 strike "The" and insert
- 3 "(b) Except as provided in subdivision (c) of this
- 4 subsection, the".
- 5 2. On page 3, line 5, strike "(b)" through "the" and
- 6 insert
- 7 "(c) The information required in subdivision (b) of this
- 8 subsection regarding the operation and maintenance of a cemetery,
- 9 burial ground, mausoleum, or columbarium prior to January 1, 2005,
- 10 shall be required only if such information is reasonably available
- 11 to the registering entity.
- 12 (d) The entity owning, operating, or maintaining the
- 13 cemetery, burial ground, mausoleum, or columbarium may include the
- 14 following information in the registration: (i) The"; in line 8
- 15 before "information" insert "(ii)"; in line 10 strike "A" and
- 16 insert "The entity owning, operating, or maintaining a"; and in
- 17 line 11 strike "be registered" and insert "register".

(Signed) Ray Janssen, Chairperson

GENERAL FILE

LEGISLATIVE BILL 986. Title read. Considered.

The Standing Committee amendment, AM2364, found on page 461, was adopted with 33 ayes, 0 nays, 9 present and not voting, and 7 excused and not voting.

Advanced to E & R for review with 33 ayes, 0 nays, 9 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 1049. Title read. Considered.

Senator Loudon renewed his pending amendment, AM2291, found on page 507.

Pending.

STANDING COMMITTEE REPORTS

Natural Resources

The Natural Resources Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Environmental Quality Council

Steve Oltmans

Jodi Thompson

VOTE: Aye: Senators Friend, Jones, Kremer, Loudon, Preister, Schrock, and Stuhr. Nay: None. Absent: Senator Hudkins.

(Signed) Ed Schrock, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 819. Placed on General File.

LEGISLATIVE BILL 940. Placed on General File as amended.

Standing Committee amendment to LB 940:

AM2517

1 1. Strike original sections 3 to 7 and insert the
2 following new section:

3 "Sec. 3. Original section 81-8,271.01, Reissue Revised
4 Statutes of Nebraska, and section 43-260, Revised Statutes
5 Supplement, 2002, are repealed."

6 2. On page 7, line 24, strike "81-1201.04 to
7 81-1201.06,".

- 8 3. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 1033. Placed on General File as amended.

Standing Committee amendment to LB 1033:

AM2516

- 1 1. Insert the following new section:
- 2 "Sec. 3. Since an emergency exists, this act takes
- 3 effect when passed and approved according to law."

LEGISLATIVE BILL 1118. Placed on General File as amended.

Standing Committee amendment to LB 1118:

AM2494

- 1 1. Strike original section 3 and insert the following
- 2 new section:
- 3 "Sec. 3. Section 84-304, Revised Statutes Supplement,
- 4 2003, is amended to read:
- 5 84-304. It shall be the duty of the Auditor of Public
- 6 Accounts:
- 7 (1) To give information in writing to the Legislature,
- 8 whenever required, upon any subject relating to the fiscal affairs
- 9 of the state or with regard to any duty of his or her office;
- 10 (2) To furnish offices for himself or herself and all
- 11 fuel, lights, books, blanks, forms, paper, and stationery required
- 12 for the proper discharge of the duties of his or her office;
- 13 (3) To examine or cause to be examined, ~~in accordance~~
- 14 ~~with generally accepted government auditing standards for financial~~
- 15 ~~audits, as that term is defined in the Electronic Codification of~~
- 16 ~~Government Auditing Standards as of July 1999, published by the~~
- 17 ~~Comptroller General of the United States, General Accounting~~
- 18 ~~Office,~~ at such time as he or she shall determine, books, accounts,
- 19 vouchers, records, and expenditures of all state officers, state
- 20 bureaus, state boards, state commissioners, the state library,
- 21 societies and associations supported by the state, state
- 22 institutions, state colleges, and the University of Nebraska,
- 23 except when required to be performed by other officers or persons.
- 24 Such examinations shall be done in accordance with generally
- 1 accepted government auditing standards for financial audits and
- 2 attestation engagements set forth in Government Auditing Standards
- 3 (2003 Revision), published by the Comptroller General of the United
- 4 States, General Accounting Office, and except as provided in
- 5 subdivision (12) of this section, subdivision (17) of section
- 6 50-1205, and section 84-322, shall not include performance audits
- 7 as defined in Government Auditing Standards (2003 Revision)
- 8 published by the Comptroller General of the United States, General
- 9 Accounting Office;
- 10 (4)(a) To examine or cause to be examined, at the expense
- 11 of the political subdivision, when the Auditor of Public Accounts
- 12 determines such examination necessary or when requested by the
- 13 political subdivision, the books, accounts, vouchers, records, and

14 expenditures of any agricultural association formed under Chapter
 15 2, article 20, county agricultural society, joint airport authority
 16 formed under the Joint Airport Authorities Act, city or county
 17 airport authority, bridge commission created pursuant to section
 18 39-868, cemetery district, development district, drainage district,
 19 health district, historical society, hospital authority or
 20 district, county hospital, housing agency as defined in section
 21 71-1575, irrigation district, county or municipal library,
 22 community mental health center, railroad transportation safety
 23 district, rural water district, township, Wyuka Cemetery, any
 24 village, any political subdivision with the authority to levy a
 25 property tax or a toll, or any entity created pursuant to the Joint
 26 Public Agency Act which has separately levied a property tax based
 27 on legal authority for a joint public agency to levy such a tax
 1 independent of the public agencies forming such joint public
 2 agency.

3 (b) The Auditor of Public Accounts may waive the audit
 4 requirement of subdivision (4)(a) of this section upon the
 5 submission by the political subdivision of a written request in a
 6 form prescribed by the auditor. The auditor shall notify the
 7 political subdivision in writing of the approval or denial of the
 8 request for a waiver;

9 (5) To report promptly to the Governor and the
 10 appropriate standing committee of the Legislature the fiscal
 11 condition shown by such examinations conducted by the auditor,
 12 including any irregularities or misconduct of officers or
 13 employees, any misappropriation or misuse of public funds or
 14 property, and any improper system or method of bookkeeping or
 15 condition of accounts. In addition, if, in the normal course of
 16 conducting an audit in accordance with subdivision (3) of this
 17 section, generally accepted government auditing standards for
 18 financial audits, as that term is defined in the Electronic
 19 Codification of Government Auditing Standards as of July 1999,
 20 published by the Comptroller General of the United States, General
 21 Accounting Office, the auditor discovers any potential problems
 22 related to the effectiveness, efficiency, or performance of state
 23 programs, he or she shall immediately report them in writing to the
 24 Legislative Performance Audit Committee which may investigate the
 25 issue further, report it to the appropriate standing committee of
 26 the Legislature, or both;

27 (6)(a) To examine or cause to be examined the books,
 1 accounts, vouchers, records, and expenditures of a fire protection
 2 district. The expense of the examination shall be paid by the
 3 political subdivision.

4 (b) Whenever the expenditures of a fire protection
 5 district are one hundred fifty thousand dollars or less per fiscal
 6 year, the fire protection district shall be audited no more than
 7 once every five years except as directed by the board of directors
 8 of the fire protection district or unless the auditor receives a

9 verifiable report from a third party indicating any irregularities
10 or misconduct of officers or employees of the fire protection
11 district, any misappropriation or misuse of public funds or
12 property, or any improper system or method of bookkeeping or
13 condition of accounts of the fire protection district. In the
14 absence of such a report, the auditor may waive the five-year audit
15 requirement upon the submission of a written request by the fire
16 protection district in a form prescribed by the auditor. The
17 auditor shall notify the fire protection district in writing of the
18 approval or denial of a request for waiver of the five-year audit
19 requirement. Upon approval of the request for waiver of the
20 five-year audit requirement, a new five-year audit period shall
21 begin.

22 (c) Whenever the expenditures of a fire protection
23 district exceed one hundred fifty thousand dollars in a fiscal
24 year, the auditor may waive the audit requirement upon the
25 submission of a written request by the fire protection district in
26 a form prescribed by the auditor. The auditor shall notify the
27 fire protection district in writing of the approval or denial of a
1 request for waiver. Upon approval of the request for waiver, a new
2 five-year audit period shall begin for the fire protection district
3 if its expenditures are one hundred fifty thousand dollars or less
4 per fiscal year in subsequent years;

5 (7) To appoint two assistant deputies (a) whose entire
6 time shall be devoted to the service of the state as directed by
7 the auditor, (b) who shall be certified public accountants with at
8 least five years' experience, (c) who shall be selected without
9 regard to party affiliation or to place of residence at the time of
10 appointment, (d) who shall promptly report in duplicate to the
11 auditor the fiscal condition shown by each examination, including
12 any irregularities or misconduct of officers or employees, any
13 misappropriation or misuse of public funds or property, and any
14 improper system or method of bookkeeping or condition of accounts,
15 and it shall be the duty of the auditor to file promptly with the
16 Governor a duplicate of such report, and (e) who shall qualify by
17 taking an oath which shall be filed in the office of the Secretary
18 of State;

19 (8) To conduct audits and related activities for state
20 agencies, political subdivisions of this state, or grantees of
21 federal funds disbursed by a receiving agency on a contractual or
22 other basis for reimbursement to assure proper accounting by all
23 such agencies, political subdivisions, and grantees for funds
24 appropriated by the Legislature and federal funds disbursed by any
25 receiving agency. The auditor may contract with any political
26 subdivision to perform the audit of such political subdivision
27 required by or provided for in section 23-1608 or 79-1229 or this
1 section and charge the political subdivision for conducting the
2 audit. The fees charged by the auditor for conducting audits on a
3 contractual basis shall be in an amount sufficient to pay the cost

4 of the audit. The fees remitted to the auditor for such audits and
5 services shall be deposited in the Auditor of Public Accounts Cash
6 Fund;

7 (9) To conduct all audits and examinations in a timely
8 manner and in accordance with the standards for audits of
9 governmental organizations, programs, activities, and functions
10 published by the Comptroller General of the United States;

11 (10) To develop a plan for implementing on-line filing of
12 budgeted and actual financial information by political
13 subdivisions. Such plan shall describe the technology and staff
14 resources necessary to implement on-line filing of such information
15 and the costs of these resources. Such plan shall be presented to
16 the Clerk of the Legislature on or before January 15, 2003;

17 (11) To develop and maintain an annual budget and actual
18 financial information reporting system that is accessible on-line
19 by the public; and

20 (12) When authorized, to conduct joint audits with the
21 Legislative Performance Audit Committee as described in section
22 50-1205.".

(Signed) DiAnna R. Schimek, Chairperson

AMENDMENTS - Print in Journal

Senator Wehrbein filed the following amendment to LB 279:
AM2515

(Amendments to E & R amendments, AM7162)

1 1. Insert the following new section:
2 "Sec. 4. Section 60-339, Reissue Revised Statutes of
3 Nebraska, is amended to read:
4 60-339. Upon application to register any motor vehicle,
5 no registration fee required by Chapter 60, article 3, motor
6 vehicle tax imposed in section 60-3002, or motor vehicle fee
7 imposed in section 60-3007 shall be required to be paid thereon for
8 any previous registration period during which such motor vehicle
9 was not at any time used or driven upon any public highway within
10 this state, and the person desiring to register such motor vehicle
11 without payment of such taxes and fees for previous registration
12 periods shall file with the county treasurer or designated county
13 official as provided in section 60-302 an affidavit showing where,
14 when, and for how long such motor vehicle was stored and stating
15 that the same motor vehicle was not used in this state during such
16 registration period or periods. Upon ; ~~and upon~~ receipt ~~thereof~~ of
17 such affidavit, the county treasurer or designated county official
18 shall issue a registration certificate. If no affidavit is filed
19 or if the affidavit filed is proved to be false, all such taxes and
20 fees due for any previous registration period or periods and late
21 fees if required under subsection (8) of section 60-302 shall be
22 paid prior to the issuance of a registration certificate.".

- 23 2. On page 13, line 25, after "Original" insert "section
1 60-339, Reissue Revised Statutes of Nebraska,".
2 3. Renumber the remaining section accordingly.

Senator Wehrbein filed the following amendment to LB 279:
AM2509

(Amendments to E & R amendments, AM7162)

- 1 1. In the Wehrbein amendment, AM2353, on page 4, line 6,
2 after "(8)" insert "If a person fails to register his or her motor
3 vehicle as required in Chapter 60, article 3, and pay registration
4 fees required by Chapter 60, article 3, motor vehicle taxes imposed
5 in section 60-3002, motor vehicle fees imposed in section 60-3007,
6 and motor vehicle sales taxes as prescribed in section 77-2703 when
7 due, the county treasurer or his or her agent shall collect a late
8 fee of fourteen percent per annum of the motor vehicle tax due.
9 Such late fee shall be credited to the county general fund.
10 (9)"; in line 9 after "due" insert ", including a late
11 fee under subsection (8) of this section,"; in lines 12 to 16
12 strike the new matter and all amendments thereto; in line 17 strike
13 "(9)", show as stricken, and insert "(10)"; in line 22 strike
14 "(10)", show as stricken, and insert "(11)"; and in line 26 strike
15 "(11)", show as stricken, and insert "(12)".

Senator Preister filed the following amendment to LB 449:
AM2492

- 1 1. Insert the following new section:
2 "Sec. 4. Section 81-15,248, Revised Statutes Supplement,
3 2003, is amended to read:
4 81-15,248. (1) Beginning January 1, 2004, a private
5 onsite wastewater treatment system shall not be sited, laid out,
6 constructed, reconstructed, altered, modified, repaired, inspected,
7 or pumped unless the siting, layout, construction, reconstruction,
8 alteration, modification, repair, inspection, or pumping is carried
9 out or supervised by either a certified professional as required by
10 the Private Onsite Wastewater Treatment System Contractors
11 Certification and System Registration Act, ~~or~~ a professional
12 engineer licensed in Nebraska, or a registered environmental health
13 specialist registered in Nebraska.
14 (2) Beginning January 1, 2004, any private onsite
15 wastewater treatment system constructed, reconstructed, altered, or
16 modified, ~~or inspected~~ by a certified professional, professional
17 engineer licensed in Nebraska, or registered environmental health
18 specialist registered in Nebraska shall be registered with the
19 department by the certified professional, professional engineer, or
20 registered environmental health specialist within forty-five days
21 of completion of the construction, reconstruction, alteration, or
22 modification, ~~or inspection.~~ The certified professional,
23 professional engineer, or registered environmental health
24 specialist shall submit the registration on forms provided by the

1 department and shall include the registration fee. The
2 registration fee shall be fifty dollars until rules and regulations
3 adopted and promulgated under the act provide a schedule of system
4 registration fees adequate to cover direct and indirect program
5 costs.

6 (3) The department may issue a temporary provisional
7 certificate which shall satisfy the requirements of subsection (1)
8 of this section until December 31, 2005, to an individual who
9 applies to the department and includes with the application (a) a
10 fee of three hundred dollars and (b) a properly executed and sworn
11 affidavit stating that the applicant was engaged in activity
12 relating to the siting, layout, construction, reconstruction,
13 alteration, modification, repair, inspection, or pumping of a
14 private onsite wastewater treatment system for at least twelve
15 months preceding August 31, 2003. The affidavit shall specify the
16 activity or activities listed in this subsection in which the
17 applicant was engaged during such time.

18 (4) All temporary provisional certificates issued
19 pursuant to subsection (3) of this section shall be subject to all
20 administrative and enforcement authority of the department under
21 the act and any rules and regulations relating to private onsite
22 wastewater treatment systems adopted and promulgated by the council
23 under the Environmental Protection Act.

24 (5) All temporary provisional certificates issued under
25 subsection (3) of this section shall expire on December 31, 2005.
26 Any individual holding a temporary provisional certificate wishing
27 to become a certified professional under the Private Onsite

1 Wastewater Treatment System Contractors Certification and System
2 Registration Act shall before such date meet the requirements for
3 such certification contained in the rules and regulations of the
4 council adopted and promulgated pursuant to section 81-15,247.

5 (6) The director by contract may delegate onsite
6 wastewater treatment system inspection and registration to a
7 governmental subdivision which has adopted a program at least as
8 stringent as the requirements provided by the Private Onsite
9 Wastewater Treatment System Contractors Certification and System
10 Registration Act and which has demonstrated authority to administer
11 and enforce its onsite wastewater treatment system inspection and
12 registration program."

13 2. On page 21, line 14, after the second comma insert
14 "and section 81-15,248, Revised Statutes Supplement, 2003,".

15 3. Renumber the remaining section accordingly.

Senator Baker filed the following amendment to LB 559:
AM2495

1 1. On page 5, line 4, reinstate the stricken matter and
2 strike the new matter; and in line 5 strike "be".

3 2. On page 7, lines 5, 9, 15, and 23, strike

4 "endorsement" and insert "class, endorsement, or restriction".

5 3. On page 18, line 24, strike "course" and insert

6 "school".

7 4. On page 26, lines 17 and 18, reinstate the stricken

8 matter and strike the new matter.

UNANIMOUS CONSENT - Add cointroducer

Senator Stuhr asked unanimous consent to have her name added as cointroducer to LB 1211. No objections. So ordered.

VISITORS

Visitors to the Chamber were Boy Scout Pack 307 from Deshler; 6 seniors and teacher from Twin Valley School, Bartley; 38 high school students and teacher from Lincoln Christian School, Lincoln; and students and teachers of Family and Consumer Science classes from seven schools in Nebraska.

The Doctor of the Day was Dr. Lisa Rauner from Lincoln.

ADJOURNMENT

At 12:00 p.m., on a motion by Senator Combs, the Legislature adjourned until 9:00 a.m., Tuesday, February 10, 2004.

Patrick J. O'Donnell
Clerk of the Legislature